

Shannon Drainage Bill.

MEMORANDUM.

The First Report of the Royal Commission on Public Works in Ireland gives the history of the works undertaken from time to time for the improvement of the navigation of the Shannon and the drainage of the adjoining country.

In 1839 a body called the Shannon Commissioners was constituted by Parliament to carry out navigation and drainage works designed by Mr. Rhodes. They expended a sum of 705,000*l.* during the 10 years commencing with 1840, of which 120,000*l.* was for the purchase money of the interest of the Limerick Navigation Company. The waterway was much improved, and about 13,200 acres of land were wholly relieved, and about 21,500 acres more were partially relieved, from floods.

The Commissioners of Public Works took charge of the river in 1852.

In 1867 a scheme was prepared by Mr. Bateman for the further improvement of the drainage, and in 1874 Parliament passed an Act for carrying out Mr. Bateman's scheme, at an estimated cost of 800,000*l.*, of which half was to be granted by Parliament and the residue charged upon the lands benefited by the works, provided two thirds in value of the proprietors assented. The requisite majority did not assent, and the Act has been since repealed.

In 1880-1882 the Commissioners of Public Works expended a sum of 58,757*l.* in effecting some of the improvements proposed by Mr. Bateman. This amount was provided by Parliament without any local contribution. Good has been done by these works, but they could not result in complete control of the floods.

The total expenditure on the river up to the present time has been 860,000*l.*, of which 573,000*l.* has been a free grant from the public revenue.

The value of the navigation has been diminished by the introduction of railways. In 1886 the number of tons carried was about 40,000, of which 2,100 were carried above Athlone. The tolls were 1,431*l.*, of which only 30*l.* were collected above Athlone.

The present Bill proposes to empower the Commissioners of Public Works to execute works recommended by the Royal

[Bill 259.]

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Commission for the further prevention of floods and the improvement of the drainage of the land adjoining the river. The works proposed are in part those recommended by Mr. Bateman, but some considerable saving can be effected by modifying the scheme in some particulars.

It is proposed by the Bill to give up the navigation above Athlone; but this abandonment of navigation, which is required in order to save expense in executing the drainage works contemplated by the Bill, need not necessarily be permanent. It is not intended to interfere with the masonry of the locks; and although it is proposed to lower some of the weirs and so reduce the navigable depth of the water, yet the cost of restoring the weirs to their former levels would not be great if it should hereafter be considered desirable that the depth of water should be restored to that which at present exists.

The estimated cost of the works is 263,000*l.*, of which it is estimated that 35,000*l.* can be charged upon the lands specially benefited, in the form of an annual charge of 4*l.* 10*s.* for every 100*l.* advanced by Government, payable for a term of 40 years. This charge for capital expenditure is estimated at 1,575*l.* per annum, and will begin to be payable when the whole of the advances have been made. The maintenance charge upon the specially benefited lands will be about 1,575*l.* per annum, making in all a charge of 3,150*l.*

65,000*l.* is proposed to be charged upon the county cess of the baronies and townlands within the catchment area of the river, payable by a like charge, to be presented by the grand juries at each assizes, commencing from the date of each advance. The share of the maintenance charge to be defrayed by the catchment area will be about 2,675*l.* per annum, which, with the charge for the capital outlay, will cause an addition of a penny in the pound to the grand jury cess in the catchment area. 65,000*l.* will be raised by a mortgage of the cel weirs, tolls, and surplus lands connected with the river, at present owned by the Government. The residue of the cost of the works, not exceeding 93,000*l.*, will be supplied as a free grant from moneys voted by Parliament.

It is not proposed that the works should be undertaken unless with the assent of the persons chargeable under the Bill, namely, the occupiers of lands in the districts specially benefited, who will be charged according to the value of the benefit received, and of the occupiers of lands in the rest of the catchment area, who will be charged by means of an addition to the grand jury cess.

The Bill proposes that the voting power of the benefited area shall be estimated as being equivalent to three times the voting power of the rest of the catchment area; and that each fraction of the voting power of the benefited area shall in like manner be equivalent to three times the same fraction of the voting power of the rest of the catchment area.

The assents or dissents of the occupiers will be ascertained by the Commissioners of Public Works by means of voting papers distributed and collected in somewhat the same manner as at an election for a poor law guardian.

Shannon Drainage Bill.

ARRANGEMENT OF CLAUSES.

Clause.

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Clause.

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 39. Conditions upon which the works may be undertaken. Assent of occupiers.
 40. Definitions.
- SCHEDULE.
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FOR

The Improvement of the drainage of Lands and for the prevention of Inundations within the catchment area of the River Shannon, and for other purposes relating thereto.

A.D. 1889.

WHEREAS the care and conservancy of the River Shannon and tributaries thereof and of the works from time to time executed in pursuance of the Shannon Acts, 1835 to 1874, together with all powers, authorities, privileges, rights, titles, and interests under those Acts, are vested in the Commissioners of Public Works in Ireland :

And whereas, with the object of relieving lands bordering on the said river which were subject to injurious flooding, and of affording facilities for the relief of other lands subject to be injuriously flooded on tributaries of the said river, provision was made by the Shannon Act, 1874, for the execution of certain works at an expense not exceeding three hundred thousand pounds, whereof one half should be defrayed out of money provided by Parliament as a free grant :

27 & 28 Vict.
c. 60.

And whereas a portion only of the works contemplated at the date of the said Act has been executed, and the sums actually expended thereon have been provided by Parliament :

And whereas with the same object, and for the purpose of generally improving the arterial drainage of lands within the catchment area of the River Shannon (with due regard to the maintenance of the navigation of the said river below the town of Athlone), it is expedient that the corporation of the Commissioners of Public Works in Ireland (in this Act referred to as the Commissioners) should be authorised to execute further works, at a cost not exceeding *two hundred and sixty-three thousand pounds*, and that provision should be made for supplying funds for those works, and for the maintenance thereof and of other works heretofore executed :

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A.D. 1839.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

Short titles.

2 & 3 Vict.

c. 81.

9 & 10 Vict.

c. 86.

48 & 49 Vict.

c. 41.

Declaration

of catchment

area.

1. This Act may be cited as the Shannon Act, 1839, and the Shannon Acts, 1839 to 1885, and this Act may be together cited as the Shannon Acts, 1839 to 1889.

2. The Lord Lieutenant may by Order in Council declare that such baronies and townlands in the counties of Cavan, Leitrim, Roscommon, Longford, Galway, Westmeath, King's County, Tipperary, and Clare as are in that behalf mentioned in the Order shall be deemed for the purposes of this Act to form the catchment area of the River Shannon, and those baronies and townlands are in this Act referred to as the "contributory area": Provided always, that no barony or townland in the counties of Roscommon or Galway shall be mentioned in such Order, which shall, by order of the Lord Lieutenant in Council, or otherwise, be included in the catchment area of the River Suir under the provisions of any Act now or hereafter to be passed for the execution or completion of works for the drainage of the River Suir Drainage District.

Works
authorised
for purposes
of Act.

3. In order to carry into effect the purposes of this Act, the Commissioners under this Act may within the contributory area—

- (a) deepen, widen, straighten, embank, and otherwise improve any watercourse or outfall for water, and remove any milldam, navigation weir, fish weir, eel weir, sluice, or other obstruction to any watercourse or outfall for water, and raise, widen, and otherwise alter any wall, embankment, milldam, navigation weir, fish weir, eel weir, sluice, or any dam or defence against water; and
- (b) make any new watercourse or outfall for water, and erect any new embankment, weir, dam, sluice, or defence against water, and fill up or re-open any disused watercourse; and
- (c) temporarily stop the navigation in any watercourse; and
- (d) alter, regulate, and control the water level of Lough Derg; and
- (e) lengthen, extend, alter, and adapt any piers, wharves, landing-places, or navigable channels on the banks of the River Shannon or its tributaries, or on Lough Derg, which may be affected by any alteration of the water level; and
- (f) provide for the abandonment of the navigation on so much of the River Shannon and its tributaries, and the lakes on its

course as lies above the town of Athlone, and regulate and vary the depth of water above Athlone; and A.D. 1889.

(g) erect any machinery and do any acts and things necessary or proper for effecting the above-mentioned purposes or any of them.

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Save as provided by this Act, the Commissioners shall not incur liability to make compensation for anything done by them in exercise of their powers under this section.

4. The cost of the works to be executed for the purposes of this Act shall be defrayed in manner following; (that is to say.) Provision of money for works.

(1.) *A part of the costs shall be defrayed out of money provided by Parliament as a free grant, to an amount not exceeding in the whole ninety-eight thousand pounds;*

(2.) The Commissioners may from time to time, with the consent of the Treasury, out of money at their disposal for the purpose of loans, make advances by way of loan for the purposes of this Act to an amount not exceeding in the whole *one hundred and sixty-five thousand pounds* on the securities hereafter in this Act mentioned;

and every sum from time to time appropriated for the purpose of defraying any part of the cost of the said works shall be so provided and advanced partly by way of grant and partly by way of loan as the Treasury may direct.

5. The repayment with interest of the sums advanced by way of loan by the Commissioners in pursuance of this Act shall be secured in manner following: Securities for repayment of advances.

(a) Such amount as the Commissioners, with the sanction of the Treasury, may prescribe shall be secured upon the receipts of the Shannon navigation; and

(b) the sum of *thirty-five thousand pounds* shall be secured, in the manner provided in this Act, upon the lands specially benefited; and

(c) the remainder of the sums advanced shall be secured, in the manner provided in this Act, upon the county cess of the baronies and townlands in the contributory area.

6. The Commissioners shall prepare a scheme, having a draft schedule attached thereto, declaring and apportioning the charges upon lands specially benefited, and upon the contributory area. Preliminary scheme.

In such scheme they shall divide the lands for whose special benefit the proposed works are designed into districts (referred to in this Act as special districts) of such number and extent as they

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A.D. 1889. think best (and in so doing they may adopt in whole or in part, as they may think fit, the areas contained in the survey and valuation prepared by the Commissioners in the year one thousand eight hundred and sixty-six, and referred to in the Shannon Act, 1874); and shall charge a gross aggregate amount, calculated as herein- 5

37 & 38 Vict.
c. 60.

They shall also specify in such draft schedule—

- (a) the lands comprised in the special districts (in this section and elsewhere in this Act the term "land" includes a house); 10
- (b) the persons occupying or reputed to occupy the said lands, and the portion of land occupied by each;
- (c) the annual value of the said lands before the execution of the works, and the estimated increase in such value resulting from the proposed works; 15
- (d) the gross amount to be charged on each occupier's portion of the said lands, and the gross valuation thereof under the Acts relating to the valuation of rateable property in Ireland; such gross amount shall be the aggregate of the proportion of the said sum of *thirty-five thousand pounds*, and the proportion 20 of such sum for interest thereon from the date of the advance to the date of the award pursuant to this Act, as the Commissioners shall fix; and
- (e) all such other matters and things as the Commissioners think proper. 25

The sum to be charged upon the county cess of baronies and townlands shall be apportioned between them by the Commissioners according to their respective valuations.

As between the counties liable to contribute and the special districts, the apportionment indicated in the scheme shall be final. 30

Employ-
ment of
engineer
and other
officers.

7. The Commissioners may, with the consent of the Treasury, employ an engineer and such officers and clerks as may be necessary to enable them to discharge the duties imposed upon them by this Act.

A draft schedule to be published, and a copy deposited with the clerks of the Crown and Peace and unions.

8. When such draft schedule as aforesaid shall have been prepared, the Commissioners shall cause a copy thereof to be deposited with the clerk of the Crown and Peace of the county and the clerk of each of the several unions wherein the lands drained and improved, or any part thereof, may be situated; and such clerks of the Crown and Peace and clerks of unions are hereby authorised 40 and required to receive the same; and the Commissioners shall

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cause notice of such lodgment to be inserted in one or more of the newspapers usually circulated in the counties or districts in which such several unions are situated, once in each week for three successive weeks, and once in some newspaper circulated in the city of Dublin; and the Commissioners shall also in such notice require all persons being occupiers or proprietors of lands proposed to be charged as being improved, who may desire to object to such schedule, to lodge their objections at such time and place as shall be therein specified, and they shall also in the said notice state that they will proceed to hear and inquire into any objections which may be lodged at such time and place, or times and places, as shall in such notice be named.

9. The Commissioners, or one of them, shall attend at such time and place, or times and places, so appointed, and shall examine into the matter of any objections to the said schedule which shall have been lodged, within the time specified in such notice as aforesaid, and shall hear all proper evidence relative thereto, and may adjourn such attendance from time to time, and shall make such alteration as may to them seem proper, and finally settle the said schedule: Provided always, that the whole amount of the said sum of *thirty-five thousand pounds*, and such sum for interest thereon from the date of the advance to the date of the award pursuant to this Act as the Commissioners shall have fixed as aforesaid, shall, notwithstanding any alteration which on the hearing of any such objections it may be deemed proper to make, be charged on the lands in the special districts.

Examination
into objections.

10.—(1.) After the completion of the works, or, if the Commissioners, with the consent of the Treasury, think fit, at any time before their completion, the Commissioners may by order declare that the amount prescribed by them with the consent of the Treasury shall be charged upon the receipts of the Shannon navigation, subject, however, to any debts or liabilities affecting them; and that amount shall be repaid as to both principal and interest by an annuity of *four and a half* per cent. thereon, payable for *forty* years, and the Commissioners shall by their order declare the amount of the annuity, and the date at which it is to commence.

Charge on
receipts of
navigation.

(2.) The whole or from time to time any part of the annuity charged under this section may be redeemed by the Commissioners, with the consent of the Treasury, out of any surplus receipts arising from the Shannon navigation.

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Charge for
repayment
of advances.

11. When from time to time an advance by way of loan (not being an advance secured upon the receipts of the Shannon navigation) is made by the Commissioners in pursuance of this Act, the repayment thereof shall be a charge upon the county cess of the baronies and townlands liable to contribute to such repayment, and 5 upon the lands situated in the special districts, according to the proportions prescribed by the said schedule to the scheme of the Commissioners in that behalf, which charges respectively shall commence to be paid at the times provided by this Act.

Charge on
county cess.

12. From the date of each advance the county cess of the 10 said baronies and townlands shall be charged with the payment to the Commissioners of an annuity of *four and a half* per cent. on the proportion of the advance specified in the scheme to be charged on the county cess of those baronies and townlands respectively; and the annuity shall be payable *for forty years*, and shall 15 be paid by equal half-yearly payments on such days as may be specified in the scheme.

The annuity shall be paid by means of an addition to the county cess levied from time to time in the said baronies and townlands.

Charge on
holdings.

13. As soon as conveniently may be after the works have been 20 completed, or before their completion, if the Treasury so direct, the Commissioners shall make an award based upon the said schedule settled by the Commissioners, in which they shall set forth the several parcels or portions of land in the special districts drained and improved, and the original and increased values 25 thereof; and such award shall also specify the due proportion chargeable in respect of each such parcel of land, of the amount by this Act directed to be charged upon the lands in the special districts, and shall also specify any other lands held by the same occupiers, to be also held chargeable, with the amount in each case 30 repayable as in this Act provided, and shall also set forth such other matters and things as to the Commissioners shall seem fit and proper.

Lands to
become
chargeable
with rent-
charge.

14. The several lands mentioned in the said award shall from the date thereof become charged with the payment to Her Majesty of an annual rentcharge of *four pounds ten shillings* for every one 35 hundred pounds charged on the said lands respectively, and so in proportion for every lesser amount, to be payable for the term of *forty years*; such rentcharge to be paid by equal half-yearly payments on the *first day of May* and *first day of November* in every year, the first of such payments to be made on the first of such 40 days which shall happen after the date of said award.

15. Any sum from time to time due on account of the annuity charged upon a portion of land shall be payable by the person or persons occupying the premises at the time the payment is demanded, although such person or persons did not occupy the same at the time such sum became due, provided that no proceedings shall be commenced for the recovery of any sum in arrear against any person not primarily liable to pay the same after the expiration of two years from the date when such sum became due.

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Payment and recovery of annuity charged on holdings.

The annuity or any part thereof may at any time be redeemed by the person for the time being liable to pay the same on such terms as may be agreed on by the Commissioners with the consent of the Treasury.

Any annuity payable under this Act shall be paid to the Commissioners, or to such persons and in such manner as the Treasury may from time to time appoint.

Without prejudice to other remedies, the annuity shall be recoverable by the Commissioners in the manner in which rent-charges in lieu of tithes are recoverable in Ireland, subject to this qualification, that the Civil Bill Court of the county in which the land upon which the annuity is charged, or any part of such land is situate, shall have jurisdiction to hear and determine cases where the amount claimed does not exceed *fifty pounds*; and a certificate, purporting to be under the common seal of the Commissioners, shall, until the contrary is proved, be conclusive evidence that the amount of any annuity or arrears of annuity stated therein to be due under this Act from any person named therein is due to the Commissioners from such person.

A portion of land situated within a special district, and chargeable for that reason, shall not, in consequence of its being so chargeable, be exempt from grand jury cess assessed in pursuance of this Act.

16. Every such annuity charged upon lands shall take priority of all charges and incumbrances whatsoever and whosoever made, and of all rent payable out of the said lands, save and except quitrents and rentcharges in lieu of tithes, and also save all charges prior in date (if any) created under the authority or provisions of any Act of Parliament heretofore passed.

Priority of rentcharge.

17. The annuity aforesaid, charged by virtue of this Act upon any lands improved under this Act, shall be held to be chargeable upon such other lands held by the same occupier, as may, by the award of the Commissioners, be made chargeable therewith.

Rentcharge upon other lands of the same occupiers.

18. So long as the annuity aforesaid charged by virtue of this Act upon any land shall remain charged thereon, any increase in the value of such land which shall have resulted from the execution

Improvement to be excluded from judicial rent.

A.D. 1889. of works pursuant to the provisions of this Act shall be excluded
 44 & 45 Vict. in ascertaining the value of such land for the purpose of fixing a
 c. 49. judicial rent therefor under the Land Law (Ireland) Act, 1881,
 and any Act amending the same.

Incorporation
 of
 certain
 sections of
 10 Vict. c. 32.
 for recovery of rent-
 charge.

19. The thirty-ninth, fortieth, forty-ninth, fiftieth, fifty-second, 5
 and fifty-third sections of the Act of the tenth year of the reign
 of Her present Majesty, chapter thirty-two, intituled an Act to
 facilitate the improvement of landed property in Ireland, as
 amended by any other Act, shall, so far as the same respectively
 are not inconsistent with any of the provisions of this Act, be deemed 10
 to be incorporated in this Act, save that every act in any of said
 sections directed to be done by or to the Paymaster of Civil Service
 shall be done by or to the Commissioners, and shall be as effectual to
 all intents and purposes as any such act would have been if done
 by or to the said Paymaster under the provisions of the said first- 15
 mentioned Act. In the said sections references to an owner of
 lands shall be construed as if they were references to the occupier
 of such lands.

Maintenance
 of works.

20.—(1.) The Commissioners under this Act with a view to
 maintaining and keeping in repair the Shannon navigation and the 20
 works executed under and for the purposes of this Act, and all works
 executed for the like purposes before the passing of this Act, may from
 time to time cleanse, repair, enlarge, and otherwise place and maintain
 in a due state of efficiency any watercourse or outfall for water, or
 any wall, embarkment, dam, weir, or defence against water, or do any 25
 other act for the purpose of maintaining in a due state of efficiency
 any work required to be so maintained for any of the said purposes.

(2.) Any amount from time to time certified by the Commis-
 sioners to be required to meet the expenses of the maintenance
 and repair of the said navigation and works shall be apportioned 30
 between the lands specially benefited, and the whole of the
 catchment area, in the same proportions as the charges for the
 construction of works were apportioned.

The amount payable by the contributory area shall be charged
 upon the county cess of the several counties in which the 35
 contributory area is situate, and shall be paid by means of an
 addition to the county cess levied from time to time in such part
 of each county as is within the contributory area; and the amount
 so from time to time charged shall be apportioned between the
 several counties in the proportions and manner prescribed in the 40
 award of the Commissioners charging the annuity here-before in
 this Act mentioned.

(3.) The maintenance charge payable out of lands specially
 benefited shall be payable to, and be collected by, the Commis-

sioners in the same manner as the annuity charged upon such lands; and the Commissioners shall have the same powers of recovering a sum due for maintenance charge, and their certificate in relation thereto shall have the same effect, as if such sum were part of the said annuity. A.D. 1888.

(4.) Sums may be from time to time charged under this section, either prospectively for the payment of future expenses, or retrospectively for the payment of expenses incurred at any time within *six months* before such sums respectively are certified by the Commissioners to be required.

(5.) In addition to the power concerning the maintenance of works conferred by this section upon the Commissioners, the Commissioners shall have the same powers as under the Drainage Maintenance Act, 1866, and the twelfth and subsequent sections of that Act, relative to advances and charges and other matters, shall apply so far as is consistent with the tenor thereof; and all charges created under the said sections shall be payable by the same persons and in the same proportions as other maintenance charges under this Act. 29 & 30 Vict. c. 49.

21.—(1.) For the purpose of recovering from the grand jury of any county any sum payable out of the county cess of that county in pursuance of this Act, the Commissioners may from time to time send to the secretary of the grand jury of such county a certificate specifying the amount to be levied in any part of the county in respect of the said sum; and, in case the sum so specified in any such certificate is payable by instalments, the certificate shall also specify the number of instalments and the amount of each instalment payable by any part of such county. Recovery of annuity and maintenance expenses from grand jury.

(2.) Any such certificate, purporting to be under the common seal of the Commissioners, shall, until the contrary is proved, be conclusive evidence of all matters necessary to authorise the making of it.

(3.) Upon any such certificate being sent to the secretary of the grand jury, the grand jury at the next and every succeeding assizes until the sum therein specified as aforesaid has been fully paid, shall without any previous proceeding at any presentment sessions present any amount for the time being due or falling due before the then next assizes on account of the said sum as specified in the said certificate; and if the grand jury make default in presenting such amount as aforesaid the judge of assize shall order the amount to be raised, and the order shall have the force of a presentment, and the amount shall be apportioned and

A.D. 1889. raised and levied accordingly, as if the same had been inserted in a presentment duly made at such assizes.

(4.) The secretary of the grand jury shall, within one month after the date of any such presentment or order as aforesaid, send notice thereof to the Commissioners.

Enrolment
of award.

22. Every scheme, schedule, and final award imposing a charge under this Act, with proper schedules, map, or plan describing the lands to which such final award relates, shall be enrolled in the Consolidated Record and Writ office of the High Court, and when so enrolled shall be binding and conclusive on all parties, and a copy thereof certified by the proper officer of the said office shall be evidence that it was duly made, and that all the requisitions of the law in relation thereto were complied with; and the Commissioners shall within one month after a scheme or award is settled, cause the same to be printed and kept for public sale at a price not exceeding *two shillings and sixpence* for each copy.

Interest
from date of
advance to
commence-
ment of
annuity.

23. The amount charged on any security in pursuance of this Act shall include interest on the sum actually advanced, at the rate of *three and a quarter* per cent. per annum from the actual date of the advance to the date of the commencement of the annuity payable in respect of that amount, and the annuity shall be of such amount as may be necessary for that purpose.

Power to
Commissioners
to enter upon
and purchase
land.

24. The Commissioners may, for the purposes of this Act, purchase and acquire any lands within the contributory area, and may by themselves and their contractors, surveyors, agents, or workmen, enter upon any land and proceed with any works upon such land which they are authorised to execute, and do all things upon and affecting any land which are necessary or proper for the execution of those works, and for the accommodation of lands adjoining those works, making compensation to all persons for any damage occasioned to them by the exercise of such powers.

Regulations
as to purchase
of land.

25. The Lands Clauses Acts shall be incorporated with this Act so far as the same may be applicable to and are not inconsistent with or modified by the provisions of this Act; and in construing the said Lands Clauses Acts for the purposes of this Act the Commissioners shall be substituted for the company or promoters of the undertaking, and this Act and any Provisional Order made under it shall be the special Act.

If no agreement is come to as to the amount of any purchase money or compensation to be paid by the said Commissioners to any person, the amount thereof shall, save as herein-after mentioned, be settled by arbitration in manner provided in sections

twenty-five to thirty-seven, both included, of the Lands Clauses Consolidation Act, 1845, and not otherwise: Provided, however, that where the amount of any purchase money or compensation claimed in respect of any land required by the Commissioners, or in respect of any damage occasioned by the exercise of any powers for the execution of the works authorised by this Act to be executed by the Commissioners, does not exceed *fifty pounds*, proceedings may be taken in a summary manner, either by the Commissioners or by any person claiming such purchase money or compensation, for ascertaining the amount thereof to be paid by the Commissioners, and the court before whom such proceedings are taken shall make such order as they may deem just for the payment of such amount by the Commissioners to the person entitled thereto.

A.D. 1860.
8 & 9 Vict.
c. 18.

26. For the purpose of any works authorised by this Act, the provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof, shall be incorporated with this Act so far as such provisions may be applicable, and are not inconsistent with any of the provisions of this Act. In the construction of this Act and the said incorporated provisions, and the incorporated provisions of the Lands Clauses Acts, this Act shall be deemed to be the special Act, and the said works shall be deemed to be the railway, and the Commissioners shall be deemed to be the company:

Incorporation of sections 30 to 44 of 8 & 9 Vict. c. 20.

25 Provided that the amount of any purchase money or compensation payable by the Commissioners in pursuance of any of the said provisions shall be ascertained in manner provided in this Act in the case of purchase money or compensation payable by the Commissioners in respect of any lands required by them for or injuriously affected by any works authorised by this Act.

27. If by reason of or during the execution of any works authorised by this Act the traffic upon the canal of the Grand Canal Company shall be interrupted at any place, or the said company shall be deprived of the depth of water at any of their landing-places which now exists without as convenient facilities of access to such landing-place as now exist being provided by the Commissioners, then and in every such case the said company shall be entitled to compensation for any loss thereby occasioned, provided that the amount of such compensation shall be ascertained in the manner in this Act provided in the case of compensation to be paid for any damage occasioned by the execution of any works authorised by this Act.

Protection of Grand Canal Company.

A. D. 1889.

Variation of
works author-
ised by
means of
Provisional
Order.
Taking of
land.

28. If the Commissioners find it necessary to add to or vary the proposed works, or to take lands otherwise than by agreement, they may by petition make application to the Lord Lieutenant in Council for an Order in Council authorising them to do any of the things aforesaid.

5

With respect to Orders in Council authorised to be made by the Lord Lieutenant under this Act, the following provisions shall apply:

- (1.) The Lord Lieutenant shall not make any Order in Council under this Act unless public notice of the purport of the proposed Order has been previously given by advertisement in two successive weeks in some newspaper or newspapers circulating in the district or districts to which such Order relates, and once in some newspaper circulating in the city of Dublin. 10
- (2.) Before making any such Order in Council, the Lord Lieutenant and Privy Council shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections. 15
- (3.) When an Order in Council authorising the Commissioners to take any land otherwise than by agreement is made, it shall be published in the district to which it relates in such manner as the Lord Lieutenant and Privy Council may direct; and if any owner or occupier of land authorised to be taken otherwise than by agreement presents a petition to the Lord Lieutenant in Council within a period to be prescribed by general rules against such Order, the Lord Lieutenant may submit such Order to Parliament for confirmation; and any such Order against which such petition as aforesaid is presented shall be of no force whatever unless and until it is confirmed by Parliament. Such Order, if no such petition is presented within the prescribed time, and any Order in Council under this section not authorising land to be taken otherwise than by agreement, shall become absolute, and shall be of the same effect as if it had been confirmed by Parliament. 20
- (4.) Any Act confirming any provisional order made in pursuance of this Act, and any Order in Council not requiring confirmation by Parliament made in pursuance of this Act, may be repealed, altered, or amended by a subsequent Order in Council 40

made and confirmed, if it requires confirmation, in accordance with the provisions of this section. A.D. 1889.

(5.) The fourth, sixth, seventh, and eighth subsections of section two hundred and fourteen of the Public Health (Ireland) Act, 1878, concerning the procedure relative to provisional orders shall apply to Orders in Council under this section with the substitution of the Lord Lieutenant in Council for the Local Government Board for Ireland. 41 & 42 Vict. c. 32.

(6.) The costs of all parties of and incident to an application for an Order in Council shall be in the discretion of the Lord Lieutenant in Council, and an order respecting costs shall be enforceable as if it were an order of the Chancery Division of the High Court.

The Lord Lieutenant in Council may from time to time make such general rules as may seem fit for regulating the procedure as to Orders in Council, and with respect to fees and the taxation and payment of costs and any other matter for the purposes of this section.

29. If an Order in Council authorises any addition to, change in, or abandonment of any of the works proposed in the plans originally adopted by the Commissioners, the Order may make such amendments in the scheme relating to the cost of such works as may be deemed right. Provisional Order may vary scheme.

30. The Commissioners may from time to time by order empower the occupier of any land within the catchment area to construct, or to clean or improve, any drain in, through, across, or under any land whatsoever for the purpose of connecting or keeping connected the field drainage of the land of such occupier with any watercourse under the control of the Commissioners. Such order shall be a sufficient authority to any person named therein, his agents and workmen, at all reasonable times to enter upon any land, and to do any works specified in the order, and to do all things necessary for that purpose, making reasonable compensation for any damage done by him or them, and also for the privilege aforesaid: and if any difference arises as to the amount to be paid for compensation, it shall be settled by the Commissioners, and their award shall be final. Power to authorise occupiers to construct drains.

31.—(1.) The Commissioners may, with the previous consent of the Lord Lieutenant, take down and remove or alter any bridge for the discharge of water under any public road, the alteration or removal of which is necessary or desirable for carrying into effect the purposes of this Act, and the Commissioners shall (if and when in the opinion of the Lord Lieutenant it is necessary) construct a temporary bridge in place thereof, and support and Removal and rebuilding of bridges.

A.D. 1889

maintain the same until the completion of the works necessary for the restoration to public use of the said bridge.

(2.) Where an existing bridge is taken down and removed, the Commissioners shall (if and when in the opinion of the Lord Lieutenant it is necessary) construct a new bridge, with the necessary roads of approach thereto, according to such plan, specification, and estimate as may be approved by the Lord Lieutenant.

(3.) If the removal or alteration of any such bridge was in the opinion of the Lord Lieutenant rendered necessary by reason of its having been originally improperly constructed, or subsequently altered, so as to be an impediment to the natural discharge of the water, having reference to the state of the river or stream at the time of its original construction or subsequent alteration, as the case may be, or if it was in the opinion of the Lord Lieutenant in a ruinous or insecure condition, the expense of the alteration or removal and rebuilding thereof in pursuance of this section shall be charged on the county cess of the county in which the bridge is situate, and shall be paid and payable out of such county cess to the Commissioners, and the certificate of the Commissioners purporting to be under their common seal shall be conclusive evidence of the amount of that expense:

Provided that where any bridge so rebuilt or altered is over any watercourse forming a boundary between two counties, the expense, if chargeable to county cess, shall be payable thereout by the said counties in equal moieties.

Power to
make by-
laws.

32.—(1.) The Commissioners may from time to time make, alter, and repeal bylaws—

- (a) for prohibiting persons from throwing, or causing or suffering to fall or pass into any watercourse in respect of which any works have been commenced or executed, or are maintained by the Commissioners, any weeds, stones, soil, or other solid matter calculated to cause an obstruction therein, or placing or permitting to remain any milldam, navigation weir, fish weir, eel weir, or other obstruction in any such watercourse without the consent of the Commissioners; and
- (b) for prohibiting persons from injuring or permitting to be injured any embankment or other work which has been commenced or executed or is maintained by the Commissioners; and
- (c) for requiring marks to be affixed on sluices or other works, and for prohibiting persons from defacing, removing, or injuring marks placed by authority of the Commissioners on any sluice or other work, and from defacing, removing, or injuring any notice of the Commissioners; and

(d) for regulating in conformity with marks affixed as aforesaid the opening and closing of flood gates, hatches, and sluices within the contributory area in time of flood or apprehended flood.

- 5 (e) for prohibiting persons from injuring or removing any pegs, poles, or other marks placed by authority of the Commissioners for the measurement of any works authorised by this Act, or for any other purpose connected with such works.

(3.) The Commissioners may, by any byelaws made by them
10 under this section, impose on offenders against the same such reasonable fines as they think fit, not exceeding the sum of *five pounds* for each offence, and in the case of a continuing offence a further fine not exceeding *forty shillings* for each day after written notice of the offence from the Commissioners.

- 15 (3.) Byelaws made under this section shall come into force on such day as may be appointed by the Commissioners, and shall not less than one month before that day be published in one or more of the local newspapers circulating within the contributory district.

- 20 (4.) The byelaws for the time being in force shall be printed and hung up at such places as the Commissioners think fit, with a view to making them known, and any person shall be entitled to a copy thereof on application, and on payment of a sum not exceeding *one shilling*.

- 25 (5.) A copy of any byelaws made under this section, if purporting to be signed by one of the Commissioners or by their secretary, and to be certified by such Commissioners or secretary to be a true copy, shall be conclusive evidence in all legal proceedings, until the contrary is proved, of the due making, and existence of such
30 byelaws.

(6.) Fines imposed by byelaws made under this section may be recovered in a summary manner.

- 33.—(1.) Any person who wilfully obstructs any person acting under the authority of the Commissioners in the lawful exercise of
35 any powers vested in them for the purposes of this Act, and any person who in any way injures or obstructs, or permits to be injured or obstructed, any work constructed, maintained, or repaired in pursuance of this Act, shall for each offence be liable to a fine not exceeding *ten pounds*, to be recovered in a summary manner.

Penalty for
obstructing
Commissioners.

- 40 (2.) Where the banks or the embankments of any watercourse made, opened, widened, deepened, embanked, improved, maintained, or repaired in pursuance of this Act are broken down or damaged

A.D. 1889. — by cattle grazing or being upon any lands abutting upon such watercourse, by reason whereof such watercourse is injured or obstructed, the person or persons occupying the lands at the time of such damage shall be deemed to have committed an offence under this section.

Protection of persons acting under Act.

34.—(1.) An action, prosecution, or proceeding against any person for any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act, shall not lie or be instituted unless it is commenced within *twelve months* next after the act or thing is done or omitted, or, in case of a continuance of injury or damage, within *twelve months* next after the ceasing thereof.

(2.) In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after such tender, or is proceeded with after payment into court of any money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after such tender or payment, and the defendant shall be entitled to costs, to be taxed as between solicitor and client, as from the time of such tender or payment; but this provision shall not affect the costs of any injunction or motion for an injunction in the action.

Removal of disqualification of justices.

35. A justice shall not be disqualified from acting in any case arising under this Act by reason only of his being, as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to or be benefited by any rate or payment or fund out of which any expenses of carrying this Act into effect are to be defrayed.

Saving of existing liabilities to repair.

36. The liability of any person to defray or contribute towards the expense of making, completing, altering, repairing, or maintaining any sewer or drain or any walls or works for protecting any land against the force or encroachments of any river, or doing any other work within the contributory area, shall continue, and the same may be enforced as if this Act had not been passed.

Saving for existing drainage districts.

37. Nothing in this Act shall affect the powers or liabilities of any drainage board or trustees having authority, in pursuance of any Act passed before the passing of this Act, in any drainage district situate within the contributory area.

Formation of other drainage districts.

38. Nothing in this Act contained shall be deemed, construed, or taken to affect or prejudice the right of any person or persons to constitute a separate drainage district, pursuant to the provisions of

the Drainage and Improvement of Land Act (Ireland), 1863, and the Acts amending the same.

A.D. 1863.
26 & 27 Vict.
c. 88.

With reference to any such drainage district, the following enactments shall apply, anything in any of the said Acts notwithstanding :—

- (1.) The owner of any land included or proposed to be included in such drainage district may agree with the person occupying the said land as tenant that such tenant shall, for the purposes of the said Acts, be substituted for the owner.
- (2.) If within the time limited for making objections to the report of the inspector sent by the Commissioners respecting the proposed formation of such drainage district, the owner of any land within the proposed district dissents from or does not assent to the formation of such district, the person occupying such land as tenant may apply to the Commissioners to be substituted for the said owner for the purposes of the said Acts; and if, after the Commissioners have served on the said owner notice of the application, the said owner does not, within a period to be prescribed by such notice assent to the formation of the district, the Commissioners, after hearing any objection made by the said owner and any other person having any estate or interest in the land, and on its appearing to them—
 - (a.) that the proposed works for arterial drainage will effect immediately or prospectively an increase in the annual value of the said land proportionate to the sums likely to be charged thereon in respect of the expenses of the said works and the maintenance and repair thereof; and
 - (b.) that the amount charged on the said land under an award made in pursuance of the said Acts, or a substantial part of that amount, is likely to become payable during the continuance of the tenancy then current in the said land,and having regard generally to the justice of the case, may, if they think fit, by order direct that such tenant shall for the purposes of the said Acts be substituted for the owner of the said land, but without prejudice to the right of the owner to dissent from the formation of such drainage district.
- (3.) Where in pursuance of this section the tenant of any land is substituted for the owner thereof for the purposes of the said Acts, the tenant for the time being of such land, during the continuance of the tenancy current at the time of such substitution.

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C

A.D. 1889.

tation, shall in respect of such land be vested with all the rights and be subject to all the liabilities and obligations of an owner for the purposes of the said Acts, and the owner shall during the same period be divested of such rights and exempt from such liabilities and obligations, but on the determination 5 of the said tenancy the owner shall become vested with and subject to all such rights, liabilities, and obligations as aforesaid.

44 & 45 Vict.
c. 49.

(4.) For the purposes of this section the words "tenant" and "tenancy" shall have the same meaning as in the Land Law (Ireland) Act, 1861, and the provisions of that Act respecting 10 the determination of a tenancy shall apply to the case of a tenancy to which the provisions of this section are applicable.

Conditions
upon which
the works
may be un-
dertaken.
Assent of
occupiers.

39. No works shall be commenced under this Act unless the Commissioners obtain the assent of the occupiers of the lands within the special districts (herein referred to as "the special 15 district voters"), and of the rest of the catchment area (herein referred to as the "catchment area voters"), at an election in which the wishes of the special district voters shall carry three times the weight of the wishes of the catchment area voters. The vote at such election shall be taken in the manner and subject to the 20 provisions hereby enacted :

(1.) The Commissioners shall ascertain the number of the special district voters, and the number of the catchment area voters, and shall then determine the factor (being a whole number) by which the votes of all the special district voters would have 25 to be multiplied in order to make them outnumber the votes of all the catchment area voters in the proportion, as near as may be, of three to one : and when the election has been held the Commissioners shall multiply the vote given by each special district voter, whether it is for the proposed works or 30 against them, by the factor aforesaid ; and if after such multiplication there is a majority on the whole vote given by both classes of voters in favour of the proposed works, the Commissioners shall proceed to carry them into execution in accordance with this Act.

35

(2.) The persons qualified to vote shall be all persons appearing in the grand jury applotment books as liable to pay grand jury cess in respect of the occupation of any rateable hereditament within the limits of the catchment area.

(3.) The Commissioners shall cause a vote of such persons to be 40 taken by means of voting papers within a reasonable time after the passing of this Act.

Before taking such vote the Commissioners shall publish throughout the catchment area, by means of newspapers circulating in the several districts of the area, and by posting, in such manner as the Commissioners think best calculated to give public information, notices of the general nature of the proposed works, and of the probable rate of charge upon special districts and upon the estohment area generally.

(4.) Voting papers may be in the form contained in the schedule to this Act, or to the like effect.

(5.) The Commissioners may make regulations for the distribution and collection of the voting papers, and the verification and counting thereof, and for all other matters appearing to them necessary or proper for taking such vote. Secretaries of grand juries and collectors of grand jury cess shall supply such information to the Commissioners for enabling them to take a vote as they may require. The Royal Irish Constabulary shall give such service and assistance to the Commissioners in the distribution and collection of voting papers as the Inspector General shall order.

(6.) If any person shall knowingly and fraudulently tender a vote which he is not entitled to give, or shall forge, falsify, or knowingly and fraudulently alter after signature any voting paper, or shall knowingly tender or forward any such voting paper forged, falsified, or altered as aforesaid, or shall without lawful reason suppress, carry off, destroy, or deface any voting paper after it has been issued to a voter, he shall be guilty of an offence, and may be prosecuted in a summary manner, and shall on conviction be liable to a penalty not exceeding *twenty pounds* or to imprisonment with or without hard labour for a term not exceeding *three months*.

(7.) The decision of the Commissioners as to the right of any person to vote, as to the validity of any voting paper, and as to the result of the voting, shall be final; and a certificate purporting to be under their common seal shall be conclusive evidence of the result of the voting.

The vote shall not be invalid by reason of any error or omission, or thing done, in or about the taking of it, unless the Commissioners think it expedient to quash the vote by reason thereof, and to proceed to a fresh vote.

40 40. In this Act, unless the context otherwise requires, the following expressions and words shall have the meanings hereby assigned to them: Definitions.

"The Lord Lieutenant" includes the Lords Justices or any other Chief Governor or Governors of Ireland for the time being:

[259.]

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- A.D. 1839. — "The Treasury" means the Commissioners of Her Majesty's Treasury :
- "High Court" means Her Majesty's High Court of Justice in Ireland :
- "Clerk of the Crown and Peace" includes Clerk of the Peace 5 where the offices of Clerk of the Crown and Clerk of the Peace have not been united under the provisions of the County Officers and Courts (Ireland) Act, 1877 :
- 40 & 41 Viet. c. 56. "Receipts of the Shannon navigation" includes the tolls charged in respect of the use of the said navigation, and any rents and 10 profits arising from eel weirs, mills, and surplus lands belonging to the said navigation :
- 8 & 9 Viet. c. 11. "The Lands Clauses Acts" means the Lands Clauses Consolidation Act, 1845, as amended by the Lands Clauses Consolidation Acts Amendment Act, 1860; the Railways Act (Ireland), 15 1851; the Railways Act (Ireland), 1860; and the Railways Act (Ireland), 1864 :
- 23 & 24 Viet. c. 106. "Lands" has the meaning attached thereto in the Lands Clauses Acts, and also includes any estate or interest in land, and also any right of water, right of fishery, right of way, or easement : 20
- 14 & 15 Viet. c. 70. "Watercourse" includes any river, stream, drain, sewer, or passage through which water flows :
- 23 & 24 Viet. c. 79. "Bridge" includes culvert and archway :
- 27 & 28 Viet. c. 71. "Person" includes a body of persons corporate or not corporate.

SCHEDULE.

A.D. 1889.

FORM OF VOTING PAPER AND ACCOMPANYING EXPLANATION.

[*Note.*—The correct amounts of the free grant and loans which the Treasury may ultimately sanction shall be filled in when this form is printed for circulation.]

5

Shannon Act, 1889.

Under the above-mentioned Act the Commissioners of Public Works are authorised to make excavations and other works on the Shannon and the rivers flowing into it, for improving the drainage of land.

- 10 The cost will be about 263,000*l*. A share of this, amounting to about 65,000*l*, will be charged upon the county cess of parts of Carra, Leitrim, Roscommon, Longford, Galway, Westmeath, King's County, Tipperary, and Clare. The instalment for the repayments of this part of the capital expenditure will amount to about 2,925*l* per annum, and the maintenance charge upon the counties is estimated at about 2,515*l* per annum. Taken together,
- 15 these charges will, it is estimated, come to about a penny in the pound on the valuation of the baronies and townlands chargeable.

A sum of 98,000*l* will be contributed as a free grant by the Government. A further sum of about 65,000*l* will be raised by a mortgage of the est weirs, tolls, and surplus lands connected with the river, which are at present Government property.

- The rest of the first cost of construction, estimated at 35,000*l*, will be charged upon the occupiers of lands specially benefited. This will impose an annual charge of 1,575*l* upon the lands specially benefited, which will commence to be payable on the completion of the works, or before that time if the Treasury so order. The charge will be apportioned amongst the lands specially benefited, in proportion to the estimate of the benefit they have received.

The share of the maintenance charge payable by the improved lands will be about 1,575*l* a year.

- 30 The works are not to be undertaken unless with the assent of a majority of the occupiers, as provided by the Act.

In taking the vote, the voting power of the occupiers of the improved lands is taken to be three times the voting power of the occupiers in the rest of the contributory area.

- 35 You are required to fill up this voting paper by writing in the word "for" or "against" in the blank space, and to sign it in the presence of a witness, who must also sign, and you are to keep it till called for.

Form.

Shannon Act, 1889.

- 40 I vote [] the proposed works.

Signature of voter _____ of _____
in the Barony of _____.

Signature of witness _____ of _____

A
B I L L

For the improvement of the Drainage
of Lands and for the prevention of
Inundations within the catchment area
of the River Shannon, and for other
purposes relating thereto.

(Prepared and brought in by
Mr. Arthur Sullivan, M.P., Secretary General for
Ireland, and Mr. Jackson.)

Ordered, by The House of Commons, to be Printed,
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